

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DARRYL MITCHELL, DENISE MITCHELL,

X

★ APR 09 2014 ★

LONG ISLAND OFFICE

Petitioners,

-against-

ORDER

13-CV-4636 (SJF)

SUFFOLK COUNTY, NASSAU COUNTY,

Respondents.

X

FEUERSTEIN, J.

On August 16, 2013, *pro se* petitioners Darryl Mitchell (“Darryl”) and Denise Mitchell (“Denise”) filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §§ “2241-2255” (the “petition”). [Docket Entry No. 1]. On September 23, 2013, this Court ordered that petitioners show cause why the petition should not be construed as a civil complaint brought pursuant to 42 U.S.C. § 1983 (“Section 1983”), and advising petitioners to either withdraw the petition or consent to have the submission construed as a Section 1983 complaint. [Docket Entry No. 3]. On October 21, 2013, petitioners submitted an “Affidavit of Fact in Response to Order to Show Cause” (the “October 21, 2013 Submission”). [Docket Entry No. 5].

The Court hereby construes the petition, along with the October 23, 2013 Submission, as a civil complaint which purports to allege a civil rights claim pursuant to Section 1983. To proceed with this action, petitioners must pay the \$400 filing fee or submit an application to proceed *in forma pauperis*. Failure to pay the filing fee or apply to proceed *in forma pauperis*

within fourteen (14) days of this order will result in the dismissal of this action.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: April 9, 2014
Central Islip, New York